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SUITE 2400
PHILADELPHIA PA 19103-2307

In re Application of	:	
BRZUSTOWICZ, Linda M. et al.	:	
Application No.: 10/564,260	:	DECISION ON
PCT Application No.: PCT/US01/13107	:	
International Filing Date: 23 April 2001	:	PETITION
Priority Date: 21 April 2000	:	
Attorney Docket No.: 1594-RUT.00-0084PCTA:	:	UNDER 37 CFR 1.137(b)
For: METHODS AND COMPOSITIONS	:	
FOR THE DIAGNOSIS OF	:	
SCHIZOPHRENIA	:	

This is a decision on applicants' "Petition For Revival of International Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 10 January 2006.

BACKGROUND

On 23 April 2001, applicants filed an international application number PCT/US01/13107, which claimed a priority date of 21 April 2000. The twenty month period for entering the national stage in the United States expired at midnight on 21 December 2001.

On 10 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive, payment of the petition fee and payment of the basic national fee.

On 12 January 2006, applicants submitted a declaration in support of their petition to revive.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The petition fee and basic national fee have been paid. A terminal disclaimer is not required as application was filed on or after 08 June 1995.

Applicants state the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. However, it is unclear from the supporting information, whether that is correct. In the declaration of Vincent Smeraglia, he indicates that through a clerical error Rutgers instructed their counsel not to proceed with the application. Further it appears that by January 2005, both Rutgers and the inventors were aware of the abandonment. The inventors indicate that they did not assign their invention to Rutgers, but it is unclear from the record if they were required to assign their invention to Rutgers. Clarifications of the actions of Rutgers leading to the abandonment, the ownership of the invention and the delay in filing this petition from January 2005 to January 2006 are required.


CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The application remains abandoned.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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